

Memorandum

To: Cosmetologists, Electrologists, Estheticians, Nail Technicians, Schools and Other Interested Parties
From: Kris Chiles, Section Administrator
Date: November 24, 2004

COSMETOLOGY, ELECTROLOGY, ESTHETICS, and NAIL TECHNOLOGY

Regulation Changes and Other Information

Recently you received a copy of the Regulations Governing Cosmetology (172 NAC 36), which changed effective **September 22, 2004**; and the Regulations Relating to Fees (172 NAC 37) changed effective **August 8, 2004**. This memorandum provides you with a summary of the major changes to the regulations (this is not inclusive of every change).

APPLICATION FOR A LICENSE

1. Requires the applicant to sign the application, however, the signature no longer has to be notarized.
2. Requires the applicant to attest to the following:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty of \$10 per day up to \$1000 or other action as provided in the statutes and regulations governing the credential.
3. Now allows for an initial license fee to be prorated if the license is issued within 180 days of its expiration date (\$26) and the applicant pays the entire renewal fee (\$32). Prior to this change, the renewal fee was prorated if the license was issued within 90 days of the expiration date (\$12) but not the initial license fee (the applicant paid the total initial fee of \$42).

RENEWAL

1. Requires the applicant to sign the renewal application, however, the signature no longer has to be notarized.
2. The renewal, revocation, and reinstatement process has been standardized for all professions.

Individuals currently having an active or renewable inactive status license will be mailed a renewal notice before the license expires. The licensee must choose either active or inactive status, complete all information as appropriate, include payment as indicated on the renewal notice and submit on or before the license expiration date. Renewals submitted without all required information or fee may be subject to late payment penalty or revocation in accordance with the timeframe of submission.

1. **Active** – This status is maintained by completing 8 hours of continuing competency or qualifying for one of the exemptions listed on the renewal notice and paying the required renewal fee. At least 4 hours must be at programs approved by the Nebraska Board of Cosmetology.
2. **Inactive** – This status is for individuals who have not completed the required number of hours of continuing competency. Individuals on this status are not to practice in Nebraska.

A license may be placed on inactive status with a one-time payment. The inactive status license does not have a date of expiration. Renewal notices will NOT be sent after the one-time payment.

3. **Expired** – This status is given to licenses for which renewal notices are not postmarked on or before the license expiration date. A final renewal notice will be sent after the expiration date that will require payment of the regular renewal fee plus the late penalty fee. Licenses not renewed within 30 days of the date of expiration will be revoked for non-payment of fees.

Individuals practicing on an expired license may be subjected to a fine of \$10 per day up to \$1000 until the license is made active again. Salons allowing such an individual to practice on an expired license may also be subjected to discipline for aiding and abetting the practice of an unlicensed individual.

4. **Renewable inactive status has been eliminated as a renewal option.** Individuals currently on the renewable inactive status license will be sent a renewal notice before the expiration date. The continuing education requirement for an active status license is 8 hours. The inactive status requires a one-time payment (see #2 above).
5. **Revoked Status** – This occurs when the license is not renewed within the required timeframes or as a result of disciplinary action by the Department.

REINSTATEMENT

1. Within 1 year of revocation: To reinstate the applicant must have earned 8 hours of continuing education within the past 24 months, apply for reinstatement and pay the renewal fee + \$35 late fee.
2. After 1 year of revocation: To reinstate the applicant must have earned 8 hours of continuing education within the past 24 months, petition for reinstatement, pay the renewal fee + \$75 late fee, and affidavits from 2 licensees and 2 citizens who have knowledge of the applicants activities since revocation.

CONTINUING COMPETENCY (CONTINUING EDUCATION)

1. Changed the term continuing education to continuing competency (changed per statute in 2003)
2. All licenses require completion of 8 hours of continuing competency for renewal, change of status from inactive to active, renewable inactive to active, or reinstatement of a license that has been revoked.

These hours were reduced from 16 to 8 effective September 22, 2004.

Mandatory Hours: You must complete at least 4 hours of Board approved continuing education. These hours will have a program number assigned or if completed in another State, must be approved by that State Cosmetology Board; these 4 hours can not be homestudy. (refer to the copy of the new regulation)

Optional Hours: **You may obtain 4 of the 8** hours in the other topic areas such as CPR, product knowledge, etc.,; these hours do not require Board approval and will not be assigned a program number. (refer to the copy of the new regulation)

3. **INSTRUCTORS – Effective January 1, 2005** all instructors must complete at least 4 hours of teaching methodology classes (example: teaching styles, presentation methods, lesson planning, test development, teaching difficult students).

TRAINING OF STUDENTS IN SCHOOLS FOR COSMETOLOGY, ESTHETICS AND NAIL TECHNOLOGY

Schools must revise and use curriculum/lesson plans to reflect the minimum training requirements indicated in the regulations. If the school desires to teach more than the stated minimum requirement, which is acceptable, however the additional training must be also indicated in the curriculum/lesson plans. It is expected all schools will have the revisions accomplished before the biennial accreditation inspections which are scheduled to occur between July 1, 2005 and October 31, 2005.

Schools must also administer theory and practical examinations before advancing students to work on the public and must administer final theory and practical examinations before the diploma is issued as a condition of completion of the course of training.

FEES

The fees have been reduced, refer to Title 172 Chapter 37.

ADMINISTRATIVE PENALTIES

Practice Prior to Licensure: An individual who practices prior to issuance of a license is subject to assessment of an Administrative Penalty of \$10 per day up to \$1,000, or such other action as provided in the statutes and regulations governing the credential.

Practice after Renewal Expiration: An individual who practices after expiration of his/her license (renewal date), is subject to assessment of an Administrative Penalty of \$10 per day up to \$1,000, or such other action as provided in the statutes and regulations governing the credential.

GROUND FOR DISCIPLINE

The grounds for discipline have been updated to comply with changes in the Uniform Licensing Law.

While the following information contained in this memorandum is not new, we would like to take this opportunity to provide a reminder.

CONVICTIONS

A license to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant, licensee, or registrant is guilty of any of the acts or offenses listed in 71-147 or 71-148. One of these grounds which is commonly unreported is:

Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;

If you have ever had a misdemeanor or felony conviction, or have been disciplined by another state Board, you are required to report this information in writing. Failure to report or disclose is also grounds for discipline. If you are not sure if a ticket or arrest resulted in a misdemeanor or felony conviction, we suggest you contact the court where the action was taken to assure you are reporting all convictions.

In addition to reporting the conviction or disciplinary action in writing, you are also required to submit the following:

- Official Court Record, which includes charges and disposition;
- Copies of arrest records;
- A letter from the licensee/certificate holder explaining the nature of the conviction;
- All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- A letter from the probation officer addressing probationary conditions and current status, if the licensee/certificate holder is currently on probation.
- If your license/certificate in health care in another state has been revoked, suspended, limited or disciplined in any way, an official copy of the disciplinary action, including charges and disposition.

NOTE: If you have any criminal charges or license disciplinary actions pending that results in conviction or license discipline, you are required to report such actions to this department within 30 days.

MANDATORY REPORTING

If you have first hand knowledge of a violation of the statutes or you personally committed a violation, you are required to report such violation to the Division of Investigation (telephone: 402-471-0185 or web site: <http://www.hhs.state.ne.us/reg/investi.htm>). Failure to report may result in disciplinary action against your license.

PRACTICE ISSUES

1. You must hold a NEBRASKA active license to practice. Practice without a Nebraska license may result in a fine or disciplinary action.
2. A salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises during the hours the salon is open to the public.
3. Animals, including pets, are not allowed in the establishment except for the following:
 - Animals used as guides for visually impaired or hearing-impaired persons, or service dogs for physically disabled; or
 - Fish in covered aquariums (at this time only allowed in nail salons, this will also be acceptable in cosmetology salons in the near future).
4. Waxing for hair removal can ONLY be provided by licensed cosmetologists or estheticians.
5. A new or sanitized nail file must be used on each client.

ADDRESS AND/OR NAME CHANGES

It is the responsibility of the licensee to notify the Department of any name and/or address changes prior to the renewal period. **Address changes** may be made in writing or over the telephone. **Name changes require** submission of a photocopy of the documentation of the legal name change.

WEB SITE

We are currently working on expanding the Cosmetology website, which will provide you with licensing information, board information, a copy of the regulations/statutes, how to file a complaint, etc. The web site is: <http://www.hhs.state.ne.us/crl/profindex1.htm>

You can also check the licensee records at: <http://www.nol.org/LISSearch/search.cgi>

CONTACT FOR QUESTIONS

Whenever corresponding with the Department by telephone or in writing be sure to identify your profession and license number.

If you have any questions relating to the information in this memo, contact Carol Gray at 402-471-4920 or carolann.gray@hhs.ne.gov